

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 2.59.111 pertaining) ON PROPOSED AMENDMENT
to retention of bank records)

TO: All Concerned Persons

1. On August 17, 2006, at 9:00 a.m., a public hearing will be held in Room 342 of the Park Avenue Building, 301 S. Park, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Administration, Division of Banking and Financial Institutions, will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you require an accommodation, contact the Division of Banking and Financial Institutions no later than 5:00 p.m. on August 11, 2006, to advise us of the nature of the accommodation that you need. Please contact Christopher Romano, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2928; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to cromano@mt.gov.

3. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

2.59.111 RETENTION OF BANK RECORDS (1) ~~The There exists a~~ schedule ~~known as~~ Bank Records Publication Appendix "A" ~~that~~ establishes the minimum period for retention of bank records other than those specified in 32-1-491, MCA. Bank Records Publication Appendix "A" is maintained by the Commissioner of Banking and Financial Institutions, and may be updated at regular intervals not more than once a year ~~yearly~~ by the commissioner. The July 27, 2006 edition of the Bank Records Publication Appendix "A" ~~is henceforth~~ incorporated by reference as part of this rule. A copy of ~~the most recent edition of Bank Records Publication Appendix "A"~~ this document can be obtained from the Division of Banking and Financial Institutions, Department of Administration, ~~846 Front Street~~ 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(2) When a bank microfilms, or photographs, or uses other electronic or computer-generated data records in the regular course of business as permitted by 32-1-492 through 32-1-494, MCA, the retention period of the microfilm, ~~or~~ photographs, electronic, or computer-generated data must be the same as specified in the Bank Records Publication Appendix "A" ~~below~~.

(3) Banks must comply with all federal laws and regulations requiring specific retention periods for the records enumerated in those laws or regulations. In the event that a federal law or regulation conflicts with a retention period contained in Bank Records Publication Appendix "A", a bank must comply with whichever retention period is longer. Banks must comply with ~~All~~ other applicable state laws

governing retention of personnel records, corporation records, etc. ~~must be complied with.~~

(3) and (4) remain the same but are renumbered (4) and (5).

AUTH: 32-1-218, MCA

IMP: 32-1-218, 32-1-491, 32-9-492, MCA

REASON: Section 32-3-204, MCA, allows the department to adopt rules which establish standards for bookkeeping and accounting as well as to set forth how banks maintain credit information, information in connection with assets, or information in connection with charged off items. In addition, 32-9-491, MCA, addresses record retention of customer accounts and allows the department to adopt rules for retention schedules of bank records other than those of customer accounts.

The division is proposing to amend the time period in which the Bank Records Publication Appendix "A" may be amended from yearly to regular intervals not more than once a year. The division is proposing this amendment because it may not be necessary to update this Appendix "A" in a given year. The division is proposing to amend this rule to include the electronic or computer-generated data as a method of records storage. This method of records storage has been recognized within the definitions of banks records and electronic storage within 32-1-492, MCA. The division is proposing to amend this rule in order to set forth standards when there are differences in the bank retention periods specified in Appendix "A" and federal law. It is reasonably necessary to propose this amendment to clarify the requirements for banks when there are differences in record retention guidelines set forth by state and federal laws. The division is also proposing to update Bank Records Publication Appendix "A". This Appendix has not been updated since March 31, 1995, and needs to be updated to reflect changes in the banking industry as well as new federal laws. The division does not anticipate any financial impact from the proposed rules. There are currently 65 state-chartered banks in Montana.

4. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Mark Prichard, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to maprichard@mt.gov, and must be received no later than August 28, 2006.

5. Mark Prichard, Legal Counsel, Division of Banking and Financial Institutions, has been designated to preside over and conduct the hearing.

6. An electronic copy of this Notice of Proposed Amendment is available through the department's site on the World Wide Web at <http://www.banking.mt.gov>, under "Administrative Rule Notices." The department strives to make the electronic copy of this notice conform to the official version of the notice as printed in the Montana Administrative Register, but advises all concerned persons that in the

event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to Christopher Romano, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to cromano@mt.gov; or may be made by completing a request form at any rules hearing held by the Division of Banking and Financial Institutions.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

BY: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

BY: /s/ Dal Smilie
Dal Smilie, Rule Reviewer
Department of Administration

Certified to the Secretary of State July 17, 2006.